

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----- X
JLEESA LIVINGSTON,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER
WILLIAM CAMACHO, Shield No. 24431, and POLICE
OFFICERS JOHN DOES #1-10 (names and number of
whom are unknown at present), and other unidentified
members of the New York City Police Department,

Defendants.
----- X

SUMMONS

Index No.:

The Basis of Venue is:
Location of Incident


Plaintiff designates Kings
County as the place of trial.

To the above named Defendants:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

DATED: New York, New York
September 12, 2013

Yours, etc.



JACOBS & HAZAN, LLP.
STUART E. JACOBS, ESQ.
Attorney for Plaintiff
11 Park Place, 10th Floor
New York, New York 10007
(212) 577-2690

TO: City of New York, 100 Church Street, NY, NY 10007
POLICE OFFICER WILLIAM CAMACHO, Shield No. 24431, 127 Utica Ave,
Brooklyn, NY 11213

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

----- X
JLEESA LIVINGSTON,

Plaintiff,

-against-

INDEX NO.:

VERIFIED COMPLAINT

THE CITY OF NEW YORK, POLICE OFFICER
WILLIAM CAMACHO, Shield No. 24431, and POLICE
OFFICERS JOHN DOES #1-10 (names and number of
whom are unknown at present), and other unidentified
members of the New York City Police Department,

JURY TRIAL DEMANDED

Defendants.
----- X

Plaintiff, JLEESA LIVINGSTON, by her attorneys, Jacobs & Hazan, LLP, as and for her
Complaint herein, alleges upon information and belief as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action to recover money damages arising out of defendants' violation of plaintiff's rights as secured by the Civil Rights Act, 42 U.S.C. Section 1983, and of rights secured by the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution, and the common law and the laws of the State of New York. On September 17, 2010, at approximately 10:00 p.m., plaintiff, Jleesa Livingston, while lawfully present in the vicinity of the front entrance of her apartment building, located at 17 Kingsborough 1st Walk, Brooklyn, New York, was subject to an unlawful assault, battery, false arrest and false imprisonment by the defendant New York City Police Officers. Plaintiff was deprived of her constitutional and common law rights when the individual defendants unlawfully assaulted, battered, falsely arrested and falsely imprisoned plaintiff, and used excessive force against plaintiff in violation of the Fourth and Fourteenth Amendments to the United States Constitution.

PARTIES

2. Plaintiff Jleesa Livingston is a resident of the state of New York.

3. POLICE OFFICER WILLIAM CAMACHO, Shield No. 24431, is and was at all times relevant herein, an officer, employee, and agent of the New York City Police Department.

4. POLICE OFFICER WILLIAM CAMACHO, Shield No. 24431, is and was at all times relevant herein assigned to the 77th precinct.

5. POLICE OFFICER WILLIAM CAMACHO, Shield No. 24431 is being sued in his individual and official capacities.

6. New York City Police Officers John Does #1-10 are and were at all times relevant herein officers, employees, and agents of the New York City Police Department.

7. Police Officers John Does #1-10 are being sued in their individual and official capacities.

8. At all times relevant herein, the individual defendants were acting under color of state law in the course and scope of their duties and functions as agents, servants, employees and officers of the New York City Police Department, and otherwise performed and engaged in conduct incidental to the performance of their lawful functions in the course of their duties. They were acting for and on behalf of the New York City Police Department at all times relevant herein, with the power and authority vested in them as officers, agents and employees of the New York City Police Department and incidental to the lawful pursuit of their duties as officers, employees and agents of the New York City Police Department.

9. At all times relevant hereto, defendant CITY OF NEW YORK, operated, maintained managed, supervised and controlled the New York City Police Department ("NYPD") as part of and in conjunction with its municipal function.

10. Defendant City of New York is a municipal entity created and authorized under the laws of the State of New York. It is authorized by law to maintain a police department which acts as its agent in the area of law enforcement and for which it is ultimately responsible. The defendant City of New York assumes the risks incidental to the maintenance of a police force and the employment of police officers as said risks attach to the public consumers of the services provided by the New York City Police Department.

11. This action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions, as well as the defendant, and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

12. Plaintiff has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

STATEMENT OF FACTS

13. On September 17, 2010, at approximately 10:00 p.m., plaintiff was lawfully walking in the vicinity of Rochester Avenue and Dean Street, Brooklyn, New York.

14. Plaintiff was walking to her apartment from a friend's house, when she noted several defendant police officers chasing a random person into a building.

15. Plaintiff then heard the defendant police officers yelling at people inside of the building to "get the fuck out of the building."

16. Immediately thereafter, plaintiff saw several individuals exit the building, including her son.

17. Plaintiff then approached her son and spoke with him about what was going on.

18. Suddenly, several defendant police officers exited the front door to the building and said to plaintiff's son, "what the fuck did you just say."

19. Plaintiff told the officer that her son was speaking to her, and not to the defendant police officer.

20. The defendant police officer then unlawfully approached plaintiff in a very aggressive manner, causing her to fear for her physical safety.

21. The defendant police officer then unlawfully shoved plaintiff very aggressively in the chest, without cause or justification, causing plaintiff to fall backwards onto the ground.

22. The defendant police officer then yelled at plaintiff, "get out of my fucking way and do not fucking touch me."

23. After plaintiff stood up, the defendant police officer grabbed plaintiff's arm and shoved her, without cause or legal justification.

24. Thereafter, plaintiff felt extreme pain in her chest, back, arms and feet, and was unable to walk.

25. Plaintiff called an ambulance, and was transported by EMS to Interfaith Medical Center, located at 1545 Atlantic Avenue, Brooklyn, New York, where she complained of pain in her head, neck, back, and left ankle, and was diagnosed with a sprained left ankle.

26. Some of the police officer defendants observed the violation of plaintiff's rights under the Constitution of the United States and New York State Law and did nothing to prevent the unjustifiable assault, battery, arrest and imprisonment of plaintiff.

27. There is a policy, practice or custom within the New York City Police Department, wherein New York City Police Officers illegally stop and arrest individuals present in the vicinity of where officers are conducting an arrest without a specific, articulable factual basis supporting a reasonable suspicion or probable cause to believe the individual violated any law or ordinance.

28. As a result of defendant City of New York and the New York City Police Department's policy of unconstitutionally stopping and arresting individuals in the vicinity of an arrest, which are conducted without probable cause or reasonably articulable suspicion, and the New York City Police Department's deliberate indifference about the fact that New York City Police Officers routinely conduct these arrests without reasonably articulable suspicion and/or probable cause, there is a pattern, policy, custom or practice of New York City Police Officers stopping and arresting individuals present in the vicinity of where officers are conducting an arrest without a factual basis supporting a legal reason to do so.

29. The false arrest, false imprisonment, assault, battery and use of excessive force by the individually named defendants caused plaintiff to sustain physical, psychological and emotional trauma.

FIRST CAUSE OF ACTION

Violation of Plaintiff's Fourth Amendment and Fourteenth Amendment Rights

30. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 29 with the same force and effect as if more fully set forth at length herein.

31. The individually named police officer defendants while acting in concert and within the scope of their authority, assaulted, battered, and caused plaintiff to be falsely arrested and imprisoned without probable cause, in violation of plaintiff's right to be free of an unreasonable seizure under the Fourth Amendment of the Constitution of the United States and to be free of a deprivation of liberty under the Fourteenth Amendment to the Constitution of the United States.

SECOND CAUSE OF ACTION

False Arrest and False Imprisonment

32. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 31 with the same force and effect as if more fully set forth at length herein.

33. The acts and conduct of the defendants constitute false arrest and false imprisonment under the laws of the State of New York. Defendants intended to confine plaintiff and, in fact, confined plaintiff, and plaintiff was conscious of the confinement. In addition, plaintiff did not consent to the confinement and the confinement was not otherwise privileged.

34. As a direct and proximate result of such acts, defendants deprived plaintiff of her rights under the laws of the State of New York and the United States Constitution.

35. As a result of the aforementioned conduct of defendants, plaintiffs sustained injuries, including but not limited to emotional and psychological injuries.

THIRD CAUSE OF ACTION

Negligent Hiring, Retention, Training and Supervision

36. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 35 with the same force and effect as if more fully set forth at length herein.

37. The City of New York and its employees, servants and/or agents acting within the scope of their employment did negligently hire, retain, train and supervise defendants, individuals who were unfit for the performance of police duties on the aforementioned dates at the aforementioned locations.

FOURTH CAUSE OF ACTION

Failure to Intervene

38. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 37 with the same force and effect as if more fully set forth at length herein.

39. Defendants had an affirmative duty to intervene on behalf of plaintiff, whose constitutional rights were being violated in their presence by other officers.

40. Defendants failed to intervene to prevent the unlawful conduct described herein.

41. As a result of the foregoing, plaintiff's liberty was restricted for an extended period of time, she was put in fear of her safety, and she was humiliated and subject to other physical constraints.

42. As a direct and proximate result of such acts, defendants deprived plaintiff of her rights under the laws of the State of New York and the United States Constitution.

43. As a result of the aforementioned conduct of defendants, plaintiffs sustained injuries, including but not limited to emotional and psychological injuries.

FIFTH CAUSE OF ACTION

Negligence

44. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 43 with the same force and effect as if more fully set forth at length herein.

45. Defendants owed a duty of care to plaintiff.

46. Defendants breached that duty of care by falsely arresting, falsely imprisoning, and assaulting and battering plaintiff.

47. As a direct and proximate cause of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

48. All of the foregoing occurred without any fault or provocation by plaintiff.

49. As a direct and proximate result of such acts, defendants deprived plaintiff of her rights under the laws of the State of New York and the United States Constitution.

50. As a result of the aforementioned conduct of defendants, plaintiff sustained injuries, including but not limited to emotional and psychological injuries.

SIXTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

51. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 50 with the same force and effect as if more fully set forth at length herein.

52. By the actions described herein, defendants, each acting individually and in concert with each other, engaged in extreme and outrageous conduct, conduct utterly intolerable in a civilized community, which negligently caused severe emotional distress to plaintiff, Jleesa Livingston. The acts and conduct of the defendants were the direct and proximate cause of injury and damage to plaintiff and violated plaintiff's statutory and common law rights as guaranteed plaintiff by the laws and Constitution of the State of New York.

53. As a result of the foregoing, plaintiff was deprived of liberty and sustained great emotional injuries.

54. As a direct and proximate result of such acts, defendants deprived plaintiff of her rights under the laws of the State of New York and the United States Constitution.

55. As a result of the aforementioned conduct of defendants, plaintiff sustained injuries, including but not limited to emotional and psychological injuries.

SEVENTH CAUSE OF ACTION

Assault

56. Plaintiff repeats and realleges paragraphs 1 through 55 as if fully set forth herein.

57. Defendants, their agents, servants and employees, acting within the scope of their employment, intentionally, willfully and maliciously assaulted plaintiff in that they had the real or apparent ability to cause imminent harmful and/or offensive bodily contact and intentionally did a violent and/or menacing act which threatened such contact to the plaintiff, and that such acts caused apprehension of such contact in the plaintiff.

58. As a direct and proximate result of such acts, defendants deprived plaintiff of her rights under the laws of the State of New York and the United States Constitution.

59. As a result of the aforementioned conduct of defendants, plaintiff sustained injuries, including but not limited to emotional and psychological injuries.

EIGHTH CAUSE OF ACTION

Battery

60. Plaintiff repeats and realleges paragraphs 1 through 59 as if fully set forth herein.

61. Defendants, their agents, servants and employees, acting within the scope of their employment, intentionally, willfully and maliciously battered plaintiff, when they, in a hostile and/or offensive manner struck plaintiff without her consent and with the intention of causing harmful and/or offensive bodily contact to the plaintiff and caused such battery.

62. As a direct and proximate result of such acts, defendants deprived plaintiff of her rights under the laws of the State of New York and the United States Constitution.

63. As a result of the aforementioned conduct of defendants, plaintiff sustained injuries, including but not limited to emotional and psychological injuries.

NINTH CAUSE OF ACTION

Violation of Plaintiff's Fourth And Fourteenth Amendment

Rights

64. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 63 with the same force and effect as if more fully set forth at length herein.

65. The use of excessive force by defendants in pushing and hitting plaintiff was an objectively unreasonable physical seizure of plaintiff in violation of her rights under the Fourth and Fourteenth Amendments to the Constitution of the United States and to be free of a deprivation of liberty under the Fourteenth Amendment to the Constitution of the United States.

66. As a direct and proximate result of such acts, defendants deprived plaintiff of her rights under the laws of the State of New York and the United States Constitution.

67. As a result of the aforementioned conduct of defendants, plaintiff sustained injuries, including but not limited to emotional and psychological injuries.

TENTH CAUSE OF ACTION

Municipal Liability under 42 U.S.C. § 1983

68. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked 1 through 67 with the same force and effect as if more fully set forth at length herein.

69. Defendants, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of defendant City of New York, which is forbidden by the Constitution of the United States.

70. The aforementioned customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department included, but were not limited to, illegally stopping and arresting individuals present in the vicinity of where officers are conducting an arrest without a specific, articulable factual basis supporting a reasonable suspicion or probable cause to believe the individual violated any law or ordinance, as well as inadequate screening, hiring, retaining, training, and supervising its employees with respect to this issue.

71. The aforementioned customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department were the moving force behind the violation of plaintiff's rights as described herein. As a result of the failure of defendant City of New York and the New York City Police Department to properly recruit,

screen, train, discipline, and supervise its officers, including the individual defendants, defendant City of New York has tacitly authorized, ratified, and has been deliberately indifferent to, the acts and conduct complained of herein.

72. The foregoing customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department were the moving force behind the Constitutional violations suffered by plaintiff as alleged herein.

73. The foregoing customs, policies, usages, practices, procedures and rules of defendant City of New York and the New York City Police Department were the direct and proximate cause of the constitutional violations suffered by plaintiff as alleged herein.

74. As a result of the foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department, plaintiff was unlawfully stopped, assaulted, battered, and arrested.

Defendants collectively and individually, while acting under color of state law were directly and actively involved in violating plaintiff's constitutional rights.

JURY DEMAND


75. Plaintiff hereby demands trial by jury of all issues properly triable thereby.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Jleesa Livingston demands judgment against the defendants on each cause of action in amounts to be determined upon the trial of this action which exceeds the jurisdiction of lower courts, inclusive of punitive damages and attorneys fees inclusive of costs and disbursements of this action, interest and such other relief as is appropriate under the law.

Dated: New York, New York
 September 12, 2013

By:



STUART E. JACOBS
DAVID M. HAZAN
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TO: City of New York, 100 Church Street, NY, NY 10007
 POLICE OFFICER WILLIAM CAMACHO, Shield No. 24431, 127 Utica Ave,
 Brooklyn, NY 11213

ATTORNEY'S VERIFICATION

STUART E. JACOBS, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I am a partner of the law firm of **JACOBS & HAZAN, LLP**, I have read the annexed **VERIFIED COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files. The reason this verification is made by me and not Plaintiff is that Plaintiff does not reside in the county wherein I maintain my office.

DATED: New York, New York
September 12, 2013


STUART E. JACOBS, ESQ.